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ABSTRACT

This paper explains the 1979 tuition tax credit bill, Senate Bill 1095, and compares it with the Family Choice Education Initiative introduced in California. The author contends that advocates of tuition tax credit legislation (TTCL) believe in "social triage." By this, he means that students can be divided into three groups: those for whom middle or upper class status is assured, those for whom it is uncertain, and those for whom it is virtually impossible. The author explains that advocates of TTCL believe that since resources spent on the third group are largely wasted, it makes more sense to help those in the second group for whom success is possible. He concludes that TTCL will help lower middle class rather than very poor families because a tax credit is payable only to those paying income tax (making more than \$7,000) and because the credit cannot exceed 50 percent of tuition. Because the Family Choice Initiative is payable regardless of income and because the amount of scholarship is equal to approximate tuition cost, the author considers that this plan better provides choice for all than does TTCL. The paper adds, however, that the best equalization program would instead improve economic opportunities for young people in cities and foster competence and confidence of teachers.
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Tuition Tax Credits: Educational
Advance or Social Triage?*

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The content of this paper is in three parts. First, I offer an explanation of an exemplary tuition tax credit bill, Senate 1095, introduced in the U.S. Senate on May 8, 1979, by Senators Packwood, Moynihan, Roth, and Ribicoff.¹ Second, I compare certain provisions of S. 1095 with the Family Choice Education Initiative of Professors John Coons and Stephen Sugarman, University of California.² (This is the initiative for which qualifying signatures were sought in the fall of 1979.) Thirdly, I seek to compare both of these measures, each intended to provide a greater degree of family choice in education, with the more formally constrained choice arrangements embodied in our state systems of public schools.

This paper is meant to be an exercise in social philosophy. I try to imagine that the readers and I can come to understand somewhat better the assumptions and values of persons who write and support tuition tax credit legislation (hereafter referred to as TTCL).

My predisposition is to say that a central tenet of TTCL advocates is, in effect, social triage. To speak in terms of a fable, imagine that there is a grand adjudicator of children's fortunes. Suppose that a passing line of children is divided by the grand adjudicator into three groups. Group A children are judged to be those for whom success in life, defined as living in the status of the middle or upper class, is virtually guaranteed. These children are seen to require no special services or notice from social agencies to insure further their success. Group B children have a reasonably

¹ Congressional Record, Senate, May 8, 1979, p. S5499-S5504.

² John Coons and Stephen Sugarman, "An Initiative for Family Choice in Education," filed and officially recorded by Attorney General, California as "Education Funding. Initiative Constitutional Amendment," August 9, 1979. In discussion of the initiative, see the debate between John Coons and F. Freeman Butts in Phi Delta Kappa, September, 1979.

high probability of living successful lives if and only if social agencies provide them special services or if the body politic allows their parents to provide them exclusionary rights to certain kinds of developmental services, such as private schooling. Group C children are those for whom probability of failure is high, regardless of whether special services or opportunities are provided. Imagine, finally, the following thoughts to be in the mind of the grand adjudicator. Unless B children are treated separately from C children, most B children, though not all, become themselves doomed to failure. In explaining this result, there are two alternative cases to consider. The first case is one in which publicly provided services, such as Title I services, are spread over B and C children both. Only the B children, not the C children, can receive lasting benefit from the special services, but, because the two groups must share a limited supply of extra resources, these resources are spread too thinly over the B children to be of real help to them. The other case is one in which B and C children, both groups initially being inflicted with high rates of school failure, are equally encouraged to leave the public schools, in which they are failing, and enroll themselves in private schools. B children continue to fail because the negative characteristics embodied in the C children are contagious.

In the social triagist's mind, there is no certainty as to whether Case 1 or Case 2 is more descriptive of the causes of the failure, or the potential failure, of B children, but there is certainty that political considerations forestall dramatic improvement of the lot of B children through the extra services route: it would be politically impossible to take the extra services now being received by C children away from them,

and there is not enough education money otherwise available to provide adequately for the B children if the higher allotments are to be given to the C children as well (as indeed they must be, politically speaking).

It may be politically possible, however, to succor B children by a policy of separation, i.e., selectively to encourage enrollment of B children, but not of C children, into private schools. Being free of the contagion, or "demonstration effect," of C children, B children now go on to lead successful lives.

I would now distinguish between the social triagist as realist and as idealist. The realist contends that C children, with few exceptions, are doomed to failure no matter what, and that any improvement in the success rate of B children represents victory. If the triagist as realist manages to obtain social policies to isolate B children from C, then almost certainly he can claim vindication, because almost certainly some B children will benefit by being separated from their more noxious school-mates and because the realist offers no hope anyway for C children.

The idealist as triagist has broader objectives. In his view, contagion can flow from B children to C; in other words, social health, in contrast to social illness, can be made contagious. So, as B children in their private schools begin to study hard and, once through school, obtain good jobs, word spreads through the neighborhood that success in life is indeed possible even for children of the downtrodden. The "demonstration effect" sees to it that a rising proportion of C children begin to perform well in school, whether that school is of public or private administration. Thus, the policy of social triage becomes a dynamic program, serving to reduce the size of the student population, the C children, that is abandoned.

To anticipate a conclusion of this paper, I hold that the idealist's vision of the potential of social triage is impossible of attainment unless there is a serious and successful effort to improve the economic condition of central cities in both the public and private aspects of economic activity. Further, I conclude that given such success in lifting up the economic base of central cities, a policy of social triage is not only unnecessary but ill-advised. Hence, social triage is not a sufficient condition for overcoming the problem of the failure of children in school, and neither is it a necessary condition.

Should the reader agree, either from the discussion of TTCL to follow or from his own intuition, that TTCL represents a position of social triage, one may then ask how the grand adjudicator assigns children A, B, and C categories. My own sense is the following. A children are those whose parents are upper class and upper middle class, as the terms are commonly defined. In this category, ethnic status does not matter much, nor, except in extreme cases, do personal standards of behavior. The A category includes children from the lower middle class and from low income families who are extremely bright. It also includes children from families in these SES categories that are devoted to education and to the development of their children and that somehow have managed to enroll their children in middle or upper class schools. C children are those who live in low income families (though children of some low income families will be in the A or B group). The formation of the B group is, indeed, the critical question. B children are found mainly, but not exclusively, in lower middle income families -- for example, children of "working class" families in Queens and Brooklyn and in other geographic areas that are outside the inner city

but not in the plush suburban zone. However, disruptive behavior on the part of lower middle income children, especially if the child is Black or Hispanic, serves to push children into the C category. Moreover, it is known that numbers of low-income families follow patterns of behavior toward their children that duplicate patterns to be found in the middle class. That is, the parents take their children to cultural events, spend time with their children on weekends, go to restaurants, coffee shops, etc., with their children, help with homework, serve as room mothers and scout troop leaders, seek to control children's habits generally, especially to avoid excessive TV watching, and excol the values of education, working hard in school, and job success. These families, though they are poor, are at a point of "take-off;" that is, they are poised to begin to climb out of poverty. Hence, the children of these families are placed in the B, not the C, category, in spite of the low SES standing of the parents. These children do not fit in the A category, however, because they are enrolled in low-income schools.

A Discussion of a Major Tuition Tax Credit Bill: S. 1095 of 1979

S. 1095 offers tax credits of \$250 per elementary and secondary student and \$500 per post-secondary student for fees paid for tuition. Tax credits are distinguished from tax deductions in that tax credits are subtracted in full from tax liability (tax deductions, on the other hand, are subtracted from reported income subject to taxation). The figures above apply to each member of the immediate household -- head, spouse, and dependents. For purposes of the bill, post-secondary institutions are defined simply as "institutions of higher education," except that post-secondary vocational schools are as defined in the Vocational Education

Act of 1963. Elementary and secondary schools are defined as in the Elementary and Secondary Act of 1965; in addition, to be categorized as "eligible" educational institutions, the schools must be privately operated, operated in accordance with applicable state law, and exempt from taxation.

What features of the bill are consistent with the idea that this piece of TTCL represents a policy of social triage? I list the following ones:

(1) The amount of the tax credit allowed per child cannot exceed 50 percent of tuition paid. This means that a family must find the other 50 percent of tuition -- plus other costs, as I shall note below -- from its own resources. A poor family, accordingly, can hardly expect to enroll its child in an expensive school.

(2) More telling, the tax credit is not "refundable," that is, if a family has no federal income tax liability, it receives no aid. Effectively, this restricts aid to families having a taxable income of \$7,000 or more. There are now many women who are living as single heads of household and who are working, to take a particular job as an example, as bank tellers. At current rates of pay and taxation, these women would not get help from S. 1095.

(3) The definition of tuition excludes "books, supplies, . . . equipment for courses of instruction, meals, lodging, transportation . . . education below the first-grade level." Directly, this provision prevents inner-city families from sending their children out to suburban schools unless the family can meet at least 50 percent of tuition charges, plus transport costs. Indirectly, the clause gives power to school administrators to discourage attendance of low-income youth in their schools by putting on substantial charges for school uniforms, books, supplies, and equipment.

(4) On the other hand, the bill offers substantial benefit to the lower middle class. Let us consider the following case. Suppose there is a family of five, man, wife, and three children. Imagine that two children are in college and one is about to enter high school. Suppose both parents work and have a combined income of \$30,000. Lastly, let payments for tuition for each of the college students exceed \$1,000 net of scholarships, etc. (not a too unlikely situation today!). S. 1095 thus would provide the family a tax credit of \$1,250, money the family did not have the year before, and this sum would meet a large share of the costs of enrolling the youngest child in a private secondary school.

(5) As if this were not enough, we are compelled to see that the maximum amounts of tuition tax credits are readily expandable. TTCL does not appear as an expenditure item in the federal budget and, thus, is not subject to the 3 to 5 year reauthorization cycle that is applied to other federal education legislation. As an aside, I note that there is no upper income limit in S. 1095 to cut off eligibility for TTCL. Insofar as TTCL will help keep the federal budget in deficit and promote inflation, for what reason are ordinary families to provide financial assistance to millionaires to send their children to Exeter and Harvard Law?

(6) The following language appears in S. 1095: "Any educational institution which enrolls a student for whom a tax credit is claimed under this Act shall not be considered to be a recipient of Federal assistance under this Act." What can be the meaning of this provision? Again, let us take an example. On March 21, 1979, the Office for Civil Rights issued Vocational Education Guidelines for Eliminating Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Sex and Handicap.

One particular provision (IV, B.) reads as follows. "State and local recipients may not select or approve a site for a vocational education facility for the purpose or with the effect of excluding, segregating, or other discriminating against students on the basis of race, color, or national origin. Recipients must locate vocational education facilities at sites that are readily accessible to both nonminority and minority communities, and that do not tend to identify the facility or program as intended for nonminority or minority students."³ This is a strong provision.

In response to the issuance of draft guidelines, a commenter stated that ". . . a tuition grant or loan to a student in attendance to a proprietary school is not Federal financial assistance to the proprietary school." Instead, it was suggested that the aid represented a "procurement contract" for services. The Office for Civil Rights found the comment unacceptable. "The Department has long defined the term 'recipient' under Title VI (Civil Rights Act of 1964), Title IX (Educational Amendments of 1972, barring sex discrimination) and Section 504 (of the Rehabilitation Act of 1973) to include proprietary . . . educational institutions that receive tuition from students participating in Federal tuition grant programs."

Thus, what the quoted section of S. 1095 appears to do is to exempt non-proprietary, private educational institutions that receive benefit from tuition tax credits from the application of OCR guidelines and regulations. A local church-affiliated school system would then be free to ignore the effects of its school siting policy on denial of access to services on the basis of race, color, or national origin, regardless of

³Office for Civil Rights, Department of Health, Education, and Welfare, Vocational Education Program Guidelines for Eliminating Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Sex and Handicap, Federal Register, March 21, 1979.

the fact that its students were earning federal tax credits for their parents.

Comparison of 1095 (1979) with the Family Choice Education Initiative

In 1979, Professors John Coons and Stephen Sugarman attracted national attention when they developed the Family Choice Initiative and sought to qualify the initiative for the June, 1980, ballot in California. The initiative was not so qualified at this time, but the authors may bring it forward again at a later date. Known as a "voucher" plan, the initiative is different from S. 1095 in a number of important respects.

(1) The Family Choice Education Initiative (FCEI) provides scholarships at a stated amount for children who are to be enrolled in publicly-administered voucher schools as well as for children who go to approved private schools. That is, FCEI seeks to strengthen the public educational system along with the private.

(2) The poor family receives exactly the same amount of scholarship per child as the rich; hence, it does not have to establish eligibility for aid by earning enough money to pay federal tax.

(3) The amount of the scholarship is equal to approximate full cost of tuition in private education institutions, not to 50 percent of cost as in S. 1095.

(4) FCEI provides that the state shall pay student transport costs. Accordingly, inner-city parents are assisted to enroll their children in suburban schools, if that is what they want to do.

(5) The costs of scholarships are a regular item in the state's budget, subject to usual procedures of budget review. It is not a hidden item, as tax credits are.

(6) FCEI provides that when a school is oversubscribed, admission is determined by random chance as in a lottery. Further, dismissals are subject to stringent controls and amenable to appeal under standard due process grounds. In S. 1095, on the other hand, school authorities are free to exclude students who are not pleasing.

If choice is the issue, then there should be choice for all. The Coons-Sugarman voucher plan approaches much more nearly the availability of choice for all than does TTCL. As we have seen, this latter kind of program improves choice for the middle class while giving to low-income people even less choice about school mates for their children than they now have.

It might be said that this is no time to be thinking of major new federal initiatives in education. That is true. But sometime during the next administration, the question of general aid for elementary and secondary education is going to be raised in a forceful way. There will be a substantial amount of money involved. (Present estimates of the costs of S. 1095 are in the range of \$5-6 billion.) If choice is the issue, the backers of S. 1095 could have much better supported a "Freedom of Education Act," under which the federal government would provide matching money to induce the states to adopt a Coons-Sugarman voucher plan, including all the controls that that plan contains, to keep social segregation in schools within reasonable bounds.

The Necessary Condition for School Improvement: Jobs

Actually, I do not believe that choice is the major issue in American elementary and secondary education. It would be nice to have more choice for households regarding the schools they use, as long as greater choice

did not result in an increase in social stratification, but the real issue in American education is student learning. Advocates of TTCL seek to provide an improved learning climate for certain children who can enroll themselves in private schools, especially church-affiliated schools. What of the rest of the students who are not doing well? The conventional approach in American educational policies has been to supply additional amounts of categorical aids: Title I, Programs for the Handicapped, Bi-lingual programs, and Vocational Education.

The assumption underlying the categorical approach is this: the important set of incentives to control is on the side of the teaching force. Hire more teachers, pay them higher salaries, give them extra training, supply them with aides, given them additional books and materials of instruction, etc., and all should be taken care of. Aside from the fact that this approach has made only a small dent in the problem of student failure in inner-city schools, it is patently incomplete in its logic. The one most important incentive to work on is that of the student's own. When students see a reason to commit themselves to hard work in school, they do so. When students see little connection between what is demanded of them in school and pay-off in their after-school life, they are unlikely to make great effort.

The traditional and still-most-important pay-off for success in school is an earned livelihood. It is no accident that upper class children and upper middle class children perform at a reasonably high level in their studies. The return to them for school success is clearly known and virtually certain. The child of the inner-city sees little difference in his prospects whether he or she completes high school with a B average or a D average.

With youth unemployment rates hovering around 50 percent in the inner-city, one's expectation, especially if one is a member of a minority group, is to take one's place at the back of the job queue.

It is true, of course, that those minority youth who manage to go to a four-year college and show a good record have good income prospects, but this is demanding a considerably higher level of effort than is required of majority youth to get a job in the primary labor market. John U. Ogbu has drawn attention to the deleterious effects on school achievement of minorities of what he calls the "job ceiling."⁴ My own work in the schools of Oakland have led me to exactly the same conclusion.⁵ The necessary condition to eliminate the problem of school failure is the availability of jobs for young people in the inner-city.

Nothing in TTCL offers improvement in the job situation. Hence, as I said in the first part of this paper, the social triagist as idealist is doomed to failure. Assume that more and more young people come to avail themselves of private education by means of tuition tax credits. Absent an inner-city jobs policy, a jobs policy that offered high quality openings for young people in the private sector, graduates of the private schools will see that they have been taken in under false expectation of a real return to good school performance. They will find themselves graduated from high school and unemployed, still playing the zero sum game against the superior odds granted to white middle class males in the job market.

⁴John U. Ogbu, Minority Education and Caste: The American System in Cross-Cultural Perspective, New York, Academic Press, 1978.

⁵Charles S. Benson, "Household Production of Human Capital: Time Uses of Parents and Children as Inputs," in Walter W. McMahon and Terry Geske, eds. Towards Efficiency and Equity in Educational Finance, Boston, Allyn and Bacon, forthcoming, Summer, 1980.

They will then proceed to wreck the private schools in just the same way that, in their frustration, they have rendered learning impossible in many inner-city public schools.

An educational system can be an instrument of exploitation or it can be an instrument of redistribution. Our American ideal is toward the latter point of view because we hold mobility to be an important social value and because we know full well that educational attainment is a condition of mobility. My preference, accordingly, is to direct efforts toward improving economic opportunities for young people in central cities. To repeat, this is the necessary condition for school improvements. But, it is not a sufficient condition. As William Raspberry has written, ". . . it is . . . necessary that the children and their parents have some sense that the process (of schooling) is worthwhile, that hard work and study pay off . . . (but) . . . obviously . . . teachers -- black or white -- must be competent to teach and confident of their ability to teach these particular youngsters."⁶ Competence and confidence of teachers is that sufficient condition. I would believe the sufficient condition will follow upon the attainment of the necessary condition as certainly as the sunshine of spring follows the gloom of winter.

⁶William Raspberry, "Double-Track Double-Talk," Washington Post, March 3, 1980, p. A23.